

**Taxi Committee – 18<sup>th</sup> April 2007**

**Report of the Director of Law and Property**

**To Amend the Taxi Guidelines**

**Purpose of Report**

1. To propose amendments to the Taxi Guidelines for the Taxi Committee to consider existing private hire/hackney carriage drivers licences that are suspended or revoked.

**Background**

2. On the 21<sup>st</sup> March, 2007 the Taxi Committee were informed, by report, of the changes in legislation governing the licensing of Hackney Carriage and Private Hire which came into force on the 16<sup>th</sup> March, 2007.
3. In the light of these changes, the Committee requested that a further report should be prepared to update the Taxi Guidelines.
4. Changes to the local Government (Miscellaneous) Provisions Act 1976 now give the Committee a choice of action when suspending or revoking a private hire/hackney carriage driver's or operator's licence.
5. If the Committee consider that it is in the interest of public safety to require the suspension or revocation of the private hire/hackney carriage driver's licence to have immediate effect, and the notice given to the driver includes a statement that that is so and an explanation why, the suspension or revocation takes effect immediately when the notice is given to the driver. The driver still retains the right to appeal this decision to the Magistrates' Court but cannot continue to act as a private hire/hackney carriage driver whilst awaiting the determination of that appeal to the Magistrate's Court.

6. Alternatively, the Committee are able to determine that the suspension or revocation of a private hire/hackney carriage driver's licence will not take effect until the period to lodge an appeal, 21 days, has expired, beginning with the day on which the notice is given to the driver. The driver retains the right to appeal this decision to the Magistrates' Court, but in this case, if appealed, the driver can continue to act as a private hire/hackney carriage driver until the matter is determined by the Magistrates' Court.
7. The Assistant Director, Senior Solicitor and the Licensing Officer have reviewed the implications of the changes outlined in paragraphs 5 and 6 of this report with a view to proposing amendments to the Taxi Guidelines. The conclusion reached is that it is difficult to envisage any circumstances where the Committee take the serious step of suspending or revoking a licence and yet find that the interest of public safety do not require the suspension or revocation to have immediate effect in accordance with the new provision.
8. Mitigating factors such as length of the time since the incident and overall record of the driver while licensed, will be matters to take into account in reaching a decision.
9. Accordingly, it is proposed that the following should be added to the Taxi Guidelines:-

Local Government (Miscellaneous) Provisions Act 1976 Section 61 (2A) and (2B)  
suspension and revocation of a drivers' licences

Under the above section the Committee is required to consider whether the interests of public safety demand that the suspension or revocation of a private hire/hackney carriage driver's licence should have immediate effect regardless of whether there is a subsequent appeal to the Magistrates' Court against this decision.

The Committee will consider whether to exercise this power in each individual case taking into account all factors, both aggravating and mitigating, in reaching a decision.

The Committee's starting point is that where a decision is made to suspend or revoke a licence the issue of public safety will have been compromised.

### Starting Point

Suspension or revocation of a private hire/hackney carriage driver's licence will take immediate effect unless the Committee determine that public safety will not be compromised by the driver continuing to drive during an appeal that is made to the Magistrates' Court.

10. Attached to this report at Appendix (1) is a copy of the letter sent to drivers requiring them to attend Committee. A new paragraph has been added to the letter explaining the effect of the new provision.

### Finance

11. There are no financial implications.

### Law

12. Section 61 (1) Notwithstanding anything in the Act of 1847 or in this part of the Act, the Council may suspend or revoke or refuse to renew the licence of a hackney carriage or private hire vehicle on the following grounds:-
  - a) That he has since the grant of the licence:
    - (i) been convicted of an offence involving dishonesty, indecency or violence; or:
    - (ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847, or the 1976 Act; or
  - b) Any other reasonable cause.

2(A) Subject to (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver.

2(B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

13. If the Committee suspends or revokes this licence there is a right of appeal against its decision made under Section 61 of the 1976 Act to the Magistrates' Court under Section 77 of the 1976 Act.
14. If the Committee suspends or revokes this licence under Section 61 2(A) and the decision is appealed the Magistrates' Court within 21 days of notification of the suspension or revocation the person may continue to act as a private hire or hackney carriage driver whilst awaiting that appeal to be determined by the Magistrates' Court.
15. If the Committee suspends or revokes this licence under Section 61(B) and the decision is appealed to the Magistrates' Court within 21 days the person may not continue to act as a private hire or hackney carriage driver.

### **Equality Impact**

16. This report complies fully with the Council's policy on equal opportunities.
17. The licensing of private hire and hackney carriage vehicles will impact on children and young people through their transportation in licensed vehicles.
18. There has been no consultation or involvement of children and young people in developing these proposals.

### **Recommendation**

19. That the Committee consider the proposals outlined in this report.

*John Poyellis*

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DIRECTOR OF LAW AND PROPERTY

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### **List of Background Papers**